

REMARKS

I. The Pending Claims

In the final Office Action mailed April 13, 2006, the Examiner allowed claims 54-56, 63 and 65. This Amendment After Final amends the now-pending claims to depend from allowed independent claim 54. Upon entry of this Amendment, claims 51-56, 58, 60-63, 65, 69-75, 79, and 80 will be pending. Applicants respectfully request reconsideration and allowance of this application in light of this Amendment. Applicants also direct the Examiner to related co-pending application Serial No. 10/076,596.

II. The Examiner's Suggestion

On page 2 of the Office Action, the Examiner suggested that "the wicking member" of claim 55 should be changed to "the collection strip." Applicants appreciate this suggestion and have amended claim 55 accordingly.

III. Objections to Claims

The Examiner objected claims 73 and 76 because, in each claim, "cholesterol" is listed twice in a list of substances. Claims 73 and 76 have been amended to correct this. Withdrawal of this objection is respectfully requested.

IV. Rejections under 35 U.S.C. § 112

Claims 73 and 76 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated that claims 73 and 76 are rendered indefinite by the opening language phrase of "other analytes including" and that many of the substances listed after the phrase "a least one antibody is selected from the group consisting of ..." are not antibodies. This rejection is believed to be rendered moot in view of the amendment to the claim 73. Claim 76 has been canceled. Withdrawal of this rejection is respectfully requested.

Claims 51-53, 58, 60-62 and 67-76 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner considered the recitation of the collection strip and assay strip as "a strip" to be new matter.

These claims have either been amended to depend from allowed independent claim 54 or canceled. Claim 58 has been amended to recite “a lateral flow assay strip.” Therefore, this rejection is also believed to be rendered moot in view of the above amendments to the claims 73 and 76. Withdrawal of this rejection is respectfully requested.

Claims 73 and 76 were also rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner stated that the device being used to detect the analytes is described, but neither these substances being antibodies, nor antibodies to these substances are described. This rejection is also believed to be rendered moot in view of the amendment to the claim 73 and the cancellation of claim 76. Applicants respectfully request this rejection be withdrawn.

V. The Prior Art Rejections

Claims 51-53, 58, 60-62, 67 and 73-80 were rejected under 35 U.S.C. § 102(b) as being anticipated by May et al. (U.S. Pat. No. 5,622,871). Claims 68-72 were rejected under 35 U.S.C. §103(a) as being unpatentable over May et al. (U.S. Pat. No. 5,622,871) in view of Schlipfenbacher et al. (U.S. Pat. No. 5,160,486). As discussed above, the pending claims now depend from allowed claim 54. These prior art rejections are therefore moot.

VI. Conclusion

In view of the foregoing, Applicants respectfully request reconsideration of this application. While this application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise which could be eliminated through discussions with Applicants’ representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

The present amendment is submitted in accordance with the provisions of 37 C.F.R. §1.116, which after Final Rejection permits entry of amendments placing the claims in better form for consideration on appeal. As the present amendment is believed to overcome outstanding rejections under 35 U.S.C. § 112, § 102 and § 103, the present amendment places the application in better form for consideration on appeal. It is therefore respectfully

requested that 37 C.F.R. §1.116 be liberally construed, and that the present amendment be entered.

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 19-2380. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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